THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.22353 OF 1995

DATED: 07-11-2006

BETWEEN

The Chief Engineer (Admn.)
Nagarjuna Sagar Project,
Hill Colony, Vijayapuri North,
Nalgonda District and another.

...PETITIONERS

AND

Bodda Issac, S/o. Yacob,
Marsumilli, Mylavaram Mandal,
Krishna District and another.

...RESPONDENTS

ORDER:

This writ petition has been filed questioning the award passed by the Labour Court, Guntur, dated 22.03.1995 in I.D.No.85 of 1991.

It is the case of the first respondent that he was appointed as a Laskar (N.M.R) in the Irrigation Department in 1983 and he worked up to 1987 without break of service, thus, he had put in continuous service of 240 days. Thereafter he was removed from service on 23.02.1987 without assigning any reason and therefore, the said removal was illegal, arbitrary and unsustainable. It is stated that he filed W.P.No.4905 of 1990 before this Court, which was dismissed on 24.05.1990 on the ground that there was delay on the part of the claimant in approaching the Court as the removal was as long back as on 23.02.1987. Thereafter, he approached the Labour Court by way of I.D.No.85 of 1991, wherein by order dated 22.03.1995 the Labour Court directed the management to consider his case.

It is the case of the Irrigation Department that the first respondent was engaged on daily basis for seasonal work from 01.02.1983 to 30.11.1985 in N.S.C division No.24, Mylavaram, Nuzvid circle and thereafter he joined as NM.R from 01.12.1985 to 23.02.1987 in O & M Division, Nuzvid in Telukapalli circle and the aforesaid two divisions are different and has no connection either in recruiting or removal or nature of work. Therefore, the first respondent filed I.D. against the Chief Engineer, Nagarjuna Sagar Canal, which is not a proper and necessary party, as they have not appointed him or discontinued his service. Even in the earlier writ petition it was observed that the first respondent herein has not been in service after the alleged termination on 23.02.1987 till 1990, therefore, the question of reinstating him does not arise.

The Labour Court after considering the rival contentions held that the first respondent was engaged as N.M.R. in O & M Division, Nuzvid and his engagement was not in dispute as the said division comes under the unit of Nagarjuna Sagar Left Canal under the control of works of the Chief Engineer – petitioner herein and accordingly held that the first respondent is entitled to the benefit of Section 25-F of the Industrial Disputes Act and having regard to the facts and circumstances of the case, the ID was disposed of directing the petitioner herein to consider the case of the first respondent in the light of the scheme formulated for absorption in G.O.Ms.No.212 dated 22.04.1994. It was further held that when once the termination is set aside the first respondent is deemed to be in service as N.M.R as on 25.11.1993 and he is entitled to claim the benefit of G.O.Ms.No.212.

In the result, the management was directed to consider the case of the first respondent herein as per the guidelines issued in G.O.Ms.No.212 dated 22.04.1994.

Though the writ petition was admitted in 1995, the WPMP filed for suspension of the impugned award was dismissed. In spite of service of

notice none appears for the first respondent. Thus, it is submitted by the learned Government Pleader that even after the dismissal of the WPMP the first respondent never approached the department seeking the benefit of G.O.Ms.No.212 dated 22.04.1994 as directed by the Labour Court, therefore, the first respondent is not at all entitled for any relief as awarded by the Labour Court.

I am of the opinion that merely because the first respondent has not approached the department as per the directions of the labour Court to avail the benefit of the aforesaid G.O., that itself cannot constitute a ground to set aside award of the Labour Court.

Having regard to the facts and circumstances of the case,
I do not see any infirmity legal or otherwise to interfere with the order impugned. The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

November 7, 2006
DSK